

REMARKS

Before entry of this Response, claims 1-35 were pending in the application.

Claims 7, 8, 10, 11, 14 and 22-35 have been withdrawn. Claims 1-6, 9, 12, 13 and 15-21 were rejected. After entry of this Response claims 1-6, 9, 12, 13 and 15-21 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

The following is a brief summary of the Final Action. Claims 1-6, 9 and 18-21 were rejected under 35 U.S.C. 102(a) as being anticipated by Roessler et al (U.S. Patent No. 6,552,245). Claims 1 and 18 were rejected under 35 U.S.C. 102(e) as being anticipated by Morman et al (U.S. Patent Application Publication No. 2004/0102754). Claims 12, 13 and 15-17 were rejected under 35 U.S.C. 103(a) as being unpatentable over Roessler et al in view of Buell (U.S. Patent No. 4,900,317).

For the reasons explained below, applicants respectfully traverse the rejection of claims 1-6, 9 and 18-21 under 35 U.S.C. § 102(a) as being anticipated by Roessler et al (U.S. Patent No. 6,552,245).

As explained at page 2, lines 3 – 10 of applicants' specification (emphasis added):

if a necked material with a given fiber and capillary structure is used as a bodyside liner material and is stretched in a direction, the fibers are forced to move and/or rotate to accommodate the stretch. This movement and/or rotation of the fibers changes the capillary structure of the necked nonwoven material.
If the necked, non-stretched nonwoven had an ideal capillary structure before stretching, the stretched material will no longer have that ideal structure. In general, any changes in the dimensions

of the material in width, length, or thickness will change the capillary structure.

Claim 1 requires (emphasis added):

said bodyside liner comprising a material having a necked base layer of a fluid permeable material, said base layer material being necked by being tensioned in a first direction; at least a first and a second strip of elastomeric material attached to said necked base layer material with a space between said strips such that a center necked region of said base layer material is bordered on at least two longitudinally extending sides by flat, planar composite regions of said elastomeric materials and said base layer material, said center region generally aligned with said absorbent body structure; and wherein said center region of necked base layer material is attached to said absorbent body structure in its necked condition and said composite regions are stretchable in at least a second direction of said absorbent article.

Thus, claim 1 requires the **center region** of necked base layer material of the bodyside liner to be attached to the absorbent body structure **in its necked condition**. Claim 1 also requires the composite regions, which consist of bodyside liner and strips of **elastomeric** material, to be **stretchable in at least a second direction**.

Similarly, claim 18 requires (emphasis added):

said region of necked base layer material generally overlying and attached to said absorbent body structure in its necked condition;

Thus, claim 18 requires the **center region** of necked base layer material of the bodyside liner to be attached to the absorbent body structure **in its necked condition**. Accordingly, in applicants' article, the **center region** of the bodyside liner, which has been necked to impart an ideal capillary structure for transmitting fluid to the underlying

absorbent body, is then attached to the absorbent body in that ideal necked condition so that the absorbent body assists in preventing the stretching of the **center region** of the bodyside liner when the customer uses the article. Additionally, the fact that the composite regions that border each opposite side of the **center region** of the bodyside liner are stretchable, assists in preventing the customer's manipulation of the article from stretching the **center region** of the bodyside liner because the composite regions take up the stretching movements of the customer's manipulation of the article.

In rejecting claims 1-6, 9 and 18 - 21 under 35 U.S.C. 102(a) as being anticipated by Roessler et al, paragraph 6 of the Office Action states on page 3, line 11 through page 4, line 27 thereof that (emphasis added):

Roessler teaches at least a first and a second strip of elastomeric material attached to the necked base layer material with a space between the strips such that a center necked region of the base layer material is bordered on at least two longitudinally extending sides by flat, planar composite regions of the elastomeric materials and the base layer material, the center region being generally aligned with the absorbent body structure, **and the center region of necked base layer material being attached to the absorbent body structure in its necked condition** and the composite regions are stretchable in at least a second direction of the absorbent article (first and second strips of elastomeric material are leg elastics 36; side panels 42 and containment flaps 46 are also elastomeric strips; Figs. 1-2 and 5-8, col. 5, lines 26-53, col. 6, lines 27-52, col. 7, lines 6-16, **col. 14, lines 1-50, col. 16, line 43 to col. 18, line 64**, col. 20, line 66 to col. 21, line 64, col. 22, lines 6-52, col. 23, line 61 to col. 24, line 47; note leg elastics 36 are stated to be sheets; leg elastics 36 extend in the lateral direction and are stretchable in both directions; Figs. 1-2 teach attachment of the leg elastics between the bodyside liner 32 and the outer cover 30; note that Applicant's specification defines "attached" as including indirect attachment, specification, page 8, lines 11-16).

Similarly, in rejecting claims 18 - 21, the Office Action states on page 5, lines 5 - 12 that

Roessler et al discloses (emphasis added):

the region of necked base layer material overlying and being attached to the absorbent body structure in its necked condition, * * * (the strip of elastomeric material is leg elastics 36; side panels 42 and containment flaps 46 are also elastomeric strips; Figs. 1-2 and 5-8, col. 5, lines 26-53, col. 6, lines 27-52, col. 7, lines 6-16, col. 14, lines 1-66, col. 16, line 43 to col. 18, line 64, col. 21, lines 19-64, col. 22, lines 6-52, col. 23, line 61 to col. 24, line 47; note leg elastics 36 are stated to be sheets; leg elastics 36 extend in the lateral direction as well as the longitudinal direction and are stretchable in both directions; Figs. 1-2 teach attachment of the leg elastics between the bodyside liner 32 and the outer cover 30; the base layer material is extensible rather than elastomeric; note that Applicant's specification defines "attached" as including indirect attachment, specification, page 8, lines 11-16).

However, notwithstanding all of the extensive citations to Roessler et al, Roessler et al fails to disclose that the **center region** of the necked base layer material of the bodyside layer 32 is **attached to the absorbent body structure 34 in its necked condition**. Roessler et al Fig. 2 for example shows that there is no attachment between the **center region** of the bodyside layer 32 and the absorbent body 34.

Moreover, as explained at Roessler et al column 19, lines 1 – 3, Roessler et al calls for an absorbent body 34 that is elastic or extensible, and that would defeat the purpose of having the necked portion of the bodyside liner attached to the absorbent body so as to resist stretching of the bodyside liner during the customer's manipulation of the article.

Applicants therefore respectfully submit that claims 1-6, 9 and 18-21 are patentable under 35 U.S.C. 102(a) over Roessler et al (U.S. Patent No. 6,552,245).

For the reasons explained below, applicants respectfully traverse the rejection of claims 1 and 18 under 35 U.S.C. § 102(e) as being anticipated by Morman et al (U.S. Patent Application Publication No. 2004/0102754).

The inventive entity of the subject application is identical to the inventive entity of Morman et al (U.S. Patent Application Publication No. 2004/0102754). Accordingly, Morman et al cannot have been described “by another” as required for a valid Section 102(e) reference.

Applicants therefore respectfully submit that claims 1 and 18 are patentable under 35 U.S.C. § 102(e) over Morman et al.

For the reasons explained below, applicants respectfully traverse the rejection of claims 12, 13 and 15-17 under 35 U.S.C. § 103(a) as being unpatentable over Roessler et al in view of Buell (U.S. Patent No. 4,900,317)

Buell fails to correct the deficiencies noted above in Roessler et al. Applicants therefore respectfully submit that claims 12, 13 and 15-17 are patentable under 35 U.S.C. § 103(a) over Roessler et al in view of Buell.

Applicants respectfully request reconsideration and reexamination of claims 1-6, 9, 12, 13 and 15-21, and submit that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

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Date

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